

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding the
Implementation of the Suspension of Direct
Access Pursuant to Assembly Bill 1X and
Decision 01-09-060.

Rulemaking 02-01-011
(Filed January 9, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
SETTING PREHEARING CONFERENCE
IN DEPARTING LOAD PHASE**

This ruling sets a prehearing conference (PHC) in the phase of this proceeding relating to cost responsibility for "departing load" (DL) customers for Monday, August 19, 2002 beginning at 10 a.m., in the Commission's Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco.

Pursuant to Decision (D.) 02-03-055, this Commission affirmed the date of September 20, 2001 for the suspension of Direct Access (DA) electric service, and directed that a surcharge, exit fee, or other cost recovery mechanism be determined, in lieu of an earlier suspension date, to ensure that DA customers pay the full range of costs necessary to avoid shifting costs to utility bundled customers. The instant proceeding has been designated for addressing issues relating to the determination of such cost responsibility surcharges or fees.

As previously noticed in the ALJ Ruling dated March 29, 2002, and clarified by ALJ ruling dated April 5, 2002, in Application 00-11-038 et al., the

Commission will address issues relating to cost responsibility charges for both DA *and* DL customers.¹ Under the procedural schedule that was initially adopted, parties submitted testimony that included both DA and DL customer cost responsibility surcharge issues. As noted at the PHC held on June 28, 2002, however, this proceeding has been bifurcated to treat issues relating to DA customers under a separate schedule from issues relating to DL customers. Accordingly, testimony that was received into evidence during the DA phase of this proceeding did not include any testimony specifically relating to DL issues. Parties were directed to defer offering their DL-related testimony into evidence pending further notice of the time and place for separate evidentiary hearings on DL-related issues. Separate evidentiary hearings on DL issues shall now be scheduled to begin on October 3 through 9, 2002.

In preparation for the evidentiary hearings on DL issues, a PHC shall be set for August 19, 2002. The PHC shall provide an opportunity to confirm the parties intending to participate in this phase of the proceeding, and to determine a schedule for witnesses sponsoring DL-related testimony to appear for cross-examination. In order to allot sufficient hearing time for each scheduled witness, parties planning to conduct cross-examination should each prepare and submit estimates of cross-examination time per witness. Although parties previously submitted estimates of cross-examination time to the ALJ, which included DL-related testimony, those estimates were not separately delineated from DA-related testimony. Moreover, parties have now had additional time to review the DL-related testimony, and should be able to provide more accurate updated

¹ Consideration of cost responsibility issues for both DA and DL customers was subsequently transferred to R.02-01-011.

estimates of cross-examination time, particularly in view of the cross-examination that has already been conducted on the DA-related testimony.

Parties should also convey information to the ALJ concerning any relevant schedule constraints on DL-related witness availability to appear to testify or on counsels' availability to conduct cross-examination. The information on cross-examination estimates and scheduling availability constraints should be conveyed to the assigned ALJ by e-mail on August 14, 2002. At the PHC, parties will have an opportunity to discuss any other procedural or process issues that are relevant to this phase of the proceeding.

IT IS RULED that:

1. A prehearing conference is scheduled for August 19, 2002, at 10:00 a.m. at the Commission's Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, to address the scheduling of witnesses, and any related procedural and process issues relating to the Departing Load (DL) cost responsibility phase of this proceeding.
2. Cross-examination estimates and information on scheduling availability constraints relating to DL witness testimony should be conveyed to the assigned ALJ by e-mail on August 14, 2002.
3. Evidentiary hearings on DL cost responsibility surcharge issues are hereby set to begin at 10 a.m. on October 3, 2002, and continuing through October 9, 2002, in the Commission's Courtroom, State Office Building, San Francisco.

Dated July 29, 2002, at San Francisco, California.

/s/ THOMAS R. PULSIFER

Thomas R. Pulsifer
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Setting Prehearing Conference in Departing Load Phase on all parties of record in this proceeding or their attorneys of record.

Dated July 29, 2002, at San Francisco, California.

/s/ ERLINDA PULMANO
Erlinda Pulmano

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.

R.02-01-011 TRP/eap